App F IX 4

ML

1923.

(mine)

Revenue

File No 12-23

Serial Nos. 1658707

Previous references
ML 12 23 & 1032 1054
LR 482-17 & 1607, 96-17
196-24

Later references

GENERAL AND REVENUE SECRETARIAT.

Serial Nos

Part B for Aug 26

SUBJECT

Draft agreement proposed for being executed by the Wollen, Cotton and Silk Mills Company Ltd., and the proposed Spinning and Manufacturing Co. Ltd. for the use of the water of the Agrahara Hosakere tank and Gollarayanakere Tanks.

107 To, The municipal Comm^r & Collr Bangalore
No L 1647 d 31 ^8·26

Requests to arrange with the mill Authorities to have the agreement executed with the alterations suggested by Government advocate

26

G R S 58]

Previous references

Y R S 79-13 (1-6) 1914. (Land Rev)

File No 641-14

Serial Nos 1 & 2

Later references

GENERAL AND REVENUE SECRETARIAT

Serial Nos 1 & 2

Part B for June, 1915

SUBJECT

Privilege leave to Mr. T Subbarayudu, District Treasurer, Kolar

1 From the Rev Comr, no 14812 & 28 5-15
forwards with his own observations copy of letter from the Dy Comr., Kolar, soliciting orders regarding the grant of privilege leave for one month to Mr T Subbarayudu

2 To do no R. 11861 & 21 6 15
takes that the Dy Comr may appoint a local officer on the treasurer's security

M. N Srinivasaiyar 13 7 15)

GPB—10,000—23-8-15

and Revenue
Secretariat

File No 12 of 1925

Serial No

105 Letter no 1768 21/22-6-26 from the Chief Secy — Govt

States that copies of the draft agreement amended by the Govt Advocate for the use of the Agrahara Woollen Yarn and Jakkarayanakere Yarn by the Bangalore Woollen, Cotton and Silk Mills Co., and the Mysore Spinning and Manufacturing Co., respectively were sent to the two Companies with a request to intimate their willingness to enter into the agreement proposed, that the Woollen Mills have not agreed to the proposed agreement and suggest in turn a separate draft agreement and solicit early orders as to whether any further modification of the draft agreement approved by Govt is necessary in view of the objections raised by the Co's and that, if no modification of the agreement is called for, what further action has to be taken in case the Mill authorities fail to execute the required agreement and in the reply from the Mysore Spinning Co's to which case.

The Mill authorities do not want to accept the draft-agreement approved by Govt but they suggest a separate agreement, which they are prepared to execute

NOTE—Contd Sheet

Serial No

2 From the draft proposed by the Company, it is seen that Co^y does not want to agree to any suggestion of a year's lease as contained in clause 2 of the draft approved by Govt but it wants to have a prescriptive right to the use of the tank water in perpetuity or for such period as the Mela continue to exist

~~If approved~~

3 The Revl Comr is of opinion that the draft proposed by the Co^y contains some modifications having the effect of practically negativing the decision arrived at by Govt and solicits instructions whether any further modification of the agreement approved by Govt is necessary in view of the objections raised by the Co^y and if no modification of the agreement is called for, what further action has to be taken in case the Mela authorities fail to execute the agreement required

4 If approved the Govt Advocate may again be consulted in the matter.

5 The draft agreement approved by Govt was returned to the Revl Comr and the return of the same is necessary. If approved will be called for

6 Questions of fact and law have involved in a matter have to be man

Please call for the copy of the agreement as signed by the parties and submit for orders

17

is called for Govt

26

Note—Con... 1926

WD 01264—GPB—40 000—17 12-25

General and Revenue Secretariat

File No 12 of 192

Serial No

whether it is true that 40 years' enjoyment (uninterrupted) has taken place and whether the said enjoyment is enough to create a prescriptive right to the use of the tank water. Perhaps 60 years' enjoyment is required. Assuming that 40 years enjoyment is a fact the law department has to be consulted as the town is growing round about the mills it is doubtful if the tank can be allowed to exist for ever there might arise a necessity to breach it in the interests of the sanitation of the locality. Thus grant in perpetuity cannot be considered inalienable. If the Govt has not acquired a prescriptive right to the use of the water then it may be held that unless it agrees to the conditions laid down by the mills the water supply would be cut off.

NOTE—Contn Sheet

General and Revenue Secretariat

File No of 1926

Serial No

limitation for a suit against mill may perhaps be different from that against Govt. In this connection it has to be decided whether the tank is to be considered as a mill one or a Govt one

[illegible]
1/7/26

106 Letter No 5/26-27 & 10/12-7-26 from the Chief Comm[r], Bangalore City

forwards a copy of the revised staff assessment as approved by the Govt. Director which had been sent to the Bangalore Woollen, Cotton and Silk Mills Co[y] for acceptance

Enquired for orders with ref to paras 2 to 4 Supra.

[illegible]
17-7-26

NOTE—Contn Sheet

Serial No

A/

The difference between the 2 agreements is shown on pencil in the form B which the Company wants to execute.

The first Advocate may perhaps be consulted as to whether the alterations can be accepted & whether they will not prejudicially affect the rights of Govt, and the advice may perhaps be asked as to whether any further modifications of the form is possible so as to suit the interests of Govt & Comp^y and what action can be taken in case the Comp^y refuses to execute agreement A if ~~the~~ agreement has to be executed in that form alone (Secy).

(J) 20/7.

17/7.

Forwarded unofficially to the Government Advocate in Mysore for favor of opinion on the points noted above.

By order
for Secretary Govt

20/7/26.

The modifications proposed by the Mills are, in my opinion, of a far reaching character and are evidently intended to make the so called lease a real free grant. The Company wants (1) the preamble to read as though the Mills have already

U.O. No 508/26
20/7/26

GOVT. ADVOCATE'S OFFICE
2 JULY 1926
BANGALORE

09125
U.O. No 2/26-27
17 AUG 1926

GEN. & REV. SECTT
PR 2
17 AUG 1926
G.D. SECTION

NOTE—Contn. Sheet

20/7/26

Serial No.

a prescriptive right to the use of the water, (2) to make this lease a perpetual lease and (3) to delete altogether the clause providing against breaches of any of the covenants in the lease. With such material alterations the document will cease to be a lease but will become a freehold grant of the bank to the Mills.

If the Company is really anxious to retain the clause relating to the use of water for the last 40 years it may be permitted to do so provided it is modified as follows:-

"or who has had, with the permission of the Landlord, the free use of water..."

The clause providing against breach of covenants must however remain, as otherwise the Landlord would be helpless - in the event, for example, of the rights under the lease being sublet or assigned or the water being used for other than industrial purposes. If this clause remains it becomes immaterial whether it is called a permanent lease or only a lease from year to year without the usual

Serial No

for renewal. The perpetual nature must always be subject to the clause providing against breach of the conditions.

W Shawcross
Govt Advocate
16/8/26.

The Mint & may perhaps be initiated as above and to require the Company to execute agreement as above

L L Rees) 20/8/1878

Draft to be for approval.

29/9/26 L L Rees) 2/8/1878

67 Letter No L11473 8/8.26 to the Govt Advocate.

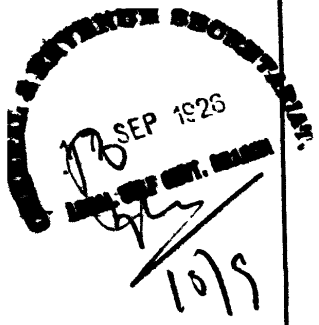
Forwarded a copy of the opinion of the Advocate on the Charges [illegible]

NOTE—Contn Sheet

WD 01264—GPB—40 000—17-12 25

General and Revenue Secretariat | File No 12 of 1923

Serial No



authorities affirmed by Govt and requests him to
arrange with the Civil authorities to have the
agreement executed with the new alterations
now suggested by the Govt Advocate.

NOTE—Contn Sheet

No. 1 [illegible]

OFFICE OF THE CITY MUNICIPAL COUNCIL,

Bangalore City, Dated 21st May 1926

GENERAL & REVENUE DEPARTMENT
6381
26 MAY 1926

GENL. & REV. SECTION
Rs. [illegible]
24 MAY 1926

From

B T KESAVAIENGAR, Esq B.A.,

Offg. MUNICIPAL COMMISSIONER, MUNICIPAL [illegible]

BANGALORE CITY

To

D. Nagappa, Esq., Bar-at-Law.,

Secretary to the Government of

His Highness the Maharaja of Mysore,

Local and Legislative Departments,

B a n g a l o r e.

Sir,

With reference to your letter No. L. 5720/Ml. 12-23-104 dated 19th February 1926, regarding the draft agreement proposed for being executed by the Bangalore Woollen, Cotton and Silk Mills Company, Limited and the Mysore Spinning and Manufacturing Company, Limited, for the use of water of the Agrahar Hoskere Tank and the Jakkarayanakere Tank respectively, I have the honor to state that copies of the draft agreement as amended by the Government Advocate, were sent to the two Companies in question with a request to intimate their willingness to enter into the agreement proposed. In reply, the Bangalore Woollen, Cotton and Silk Mills Company, Ltd., have stated that they are unable to enter into the agreement in the form proposed, but suggest in turn a draft of the agreement they are prepared to execute. A copy of the letter received from the --- Director of the Mills together with a copy of the draft agreement is herewith submitted for the perusal and orders of Government. In this connection, I only wish to invite your kind -- attention to the fact that the draft proposed by the Company -- contains certain important modifications having the effect of practically negativing the decision arrived at by Government in their Order No. R. 6790-5/L.R. 484-17-24 dated 2nd June 1922.

For

For instance, the draft proposed by the Mill authorities, requires in the preamble the recognition of the fact that the Mills have been enjoying the free use of water for the past 40 years. Although the insertion of this clause by itself may not be open to serious objection, it would undoubtedly be open to question when read with the clause "in perpetuity or for such period as the Mills exist", in condition No. 2. Again, the deletion of condition No.6 which apparently is intended to impress on the lessee the fact that there can be no prescriptive right as against Government and that the right of Government to reverse the existing order of things is unquestionable cannot be permitted. In these circumstances, I consider that the objection raised by the Binny Mills cannot be accepted. I therefore solicit early orders of Government as to whether any further modification of the draft agreement approved by the Government, is necessary in view of the objections raised by the Company, and if no modification of the agreement is called for, what further action has to be taken in case the Mill authorities fail to execute the agreement required.

The Mysore Spinning and Manufacturing Company, Limited, have not sent a final reply in the matter yet

I have the honour to be,

S i r,

Your most obedient servant,

Offg. Municipal Commissioner.

Forwarded with compliments,

Honorary President.

SM

Copy of the draft agreement proposed by the Director, Bangalore Woollen, Cotton and Silk Mills, Co., Ltd.

AGREEMENT OF LEASE made the .....day of .....192.. between the Municipal Commissioner on behalf of the Bangalore City Municipal Council (hereinafter called the Land-Lord) of the one part and The Bangalore Woollen, Cotton and Silk Mills Company, Limited, Bangalore (hereinafter called the Tenant) of the Other -- part.

WHEREAS the Land-Lord is the owner of the Tank known as --- Agrahara Hosakere situate within the limits of Bangalore City -- Municipality and WHEREAS the tenant, [who has had free use of the water of the said tank for its industrial purposes for close on 40 years,] is desirous of [continuing to make free] use of the water of the said tank for its industrial purposes and whereas it is -- agreed between the parties hereto that the Tenant should have the use of the water of the said Tank subject to the conditions hereinbelow set forth. ---

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS..---

1. The said Company shall use the water exclusively for industrial purposes.

2. [It shall not be necessary for the Tenant to renew this lease which is for "in perpetuity" or for such period as these Mills continue to exist.]

3. The use of the water of the said Tank by the Tenant -- shall be free of cost.

4. The tenant shall not assign or underlet the use of the water of the said Tank without the consent in writing of the -- Municipal Commissioner, City Municipal Council, Bangalore.

5. The tenant shall not have any right to catch fish or -- duck or other birds in the Tank.

In witness whereof etc.,

"Copy"

SM

For Municipal Commissioner.

Copy of letter dated 8th April 1926, from the Director, the Bangalore Woollen, Cotton and Silk Mills, Co., Ltd., Bangalore to the Municipal Commissioner, City Municipal Council, -- Bangalore.

We have the honor to acknowledge receipt of your letter No. 3131 dated 25th/26th ultimo enclosing draft of proposed agreement to our using the water of the Agrahara Hoskere Tank.

We notice that the agreement differs from the one we suggested to you in our letter of 6th June 1925, that the preamble merely states that the Bangalore City Municipal Council are -- the owners of the tank, and that nothing is said about this -- Company having had free use of the water for the Company's industrial purposes for close on 40 years. We think that some mention of this should be made, as we do not wish this fact to be lost sight of.

With regard to Clause 2 we regret we cannot agree to any suggestion of a yearly lease. We maintain that we have a prescriptive right to the use of the tank water, and though this clause states that it shall not be necessary for us to renew the lease every year, it nevertheless implies an admission -- from us that we have no claim to the water. If, however, for the sake of regularity a lease is necessary then we can only agree to one in perpetuity or for such period as these Mills continue to exist.

While we are quite prepared to conform to the spirit of the agreement, we think that Clause 6 should be omitted as it also conveys the suggestion that the Municipality have the right to prohibit us from using the water, which we do not -- admit.

We enclose draft of an agreement we are prepared to sign and shall be glad to know whether it meets with your approval.

"C o p y."

SM

For Municipal Commissioner.

A B

AGREEMENT OF LEASE made the day of 192 between the Municipal Commissioner on behalf of the Bangalore City Municipal Council (hereinafter called the Land-Lord) of the one part and The Bangalore Woollen - Cotton and Silk Mills Ltd./ The Mysore Spinning and Manufacturing Company Ltd., Bangalore (hereinafter called the Tenant) of the other part.

WHEREAS the Land-Lord is the owner of the Tank known as "Agrahara Hosakere/Jakkarayanakere situate within the limits of Bangalore City Municipality and WHEREAS the tenant is desirous of making use of the water of the said Tank for its industrial purposes and WHEREAS it is agreed between the - parties hereto that the Tenant should have the use of the - water of the said Tank subject to the conditions hereinbelow set forth, NOW THIS AGREEMENT WITNESSETH as follows -

1 The said Company shall use the water exclusively for industrial purposes

2 The Tenant should be considered to be a Tenant from year to year, but it shall not be necessary for the Tenant to renew the lease every year.

3 The use of the water of the said Tank by the Tenant shall be free of cost

4. The Tenant shall not assign or underlet the use of the water of the said Tank without the consent in writing of the President, City Municipal Council, Bangalore

5. The Tenant shall not have any right to catch fish or duck or other birds in the Tank

6. If the tenant makes use of the water in a manner - contrary to the terms herein specified, it shall be lawful for the

for the land-lord to forthwith determine this demise and the rights and liabilities hereby confirmed shall thereafter absolutely cease.

In witness whereof We have hereunto set our hands and seal this day the . day of 192

---:000:---

Copy
Mr Common Dis
For Mr Common
12-7 26

[KPS F VI G1]

15

SUBJECT

Diary No of letter replied to 6381L

Section 12

File No 12-2[illegible]-22

Serial No 24

No L24

General and Revenue Secretariat

(L. S. G)

the 192

To

The Municl Comr, Bangalore City through
the President, City Municl Council
Bangalore.

Date of issue 6/7/26

Signed by for T.C.S

Sir,

With ref to your letter No 1769
21[illegible]-/22 dated 1926 regarding the draft
agreement proposed for being entered
by the Bangalore Woollen, Cotton &
Silk Mills Co. for the use of water
of the Hesaraghatta Hosakere tank, I am
directed to request you to be so good
as to forward at once a copy of the
draft agreement as approved by
Govt Advocate and sent to the
said Company for acceptance

I have &c

List of enclosures

Copied by

Examined by

over

for Secy to Govt

WD 01265—GPB—31 000—24 12 25

2/7/26

No. 5 of 26-27
Encl-Nos

02185

CITY MUNICIPAL OFFICE.
Bangalore City, Dated 10th July 1926.

From

REV. T KESAVAIENGAR, ESQ., B.A.
MUNICIPAL COMMISSIONER, CITY MUNICIPALITY,
BANGALORE CITY

GEN & REVENUE SECTT
14 JUL 1926
GD SECTION

GENERAL & REVENUE SECRETARIAT
15 JUL 1926
LOCAL SELF GOVT. BRANCH

To

B. Thimmappa Esq., B.A., Barwat-Law,
Secretary to Government,
Local & Legislative Departments,
Bangalore.

Sir,

As desired in your letter No.L24 dated the 3rd July 1926, I have the honour to forward herewith a copy of the revised draft agreement as approved by the Government Advocate which had been sent to the Bangalore Woollen Cotton and Silk Mills Co., for adoption.

I have the honour to be,
Sir,
Your most obedient servant,

Municipal Commissioner.

DRR.

P.T.O.

APP F VI Gl]

SUBJECT

Section

File No. 12-

Serial No 103

No 21647

Diary No. of letter replied to 7897

General and Revenue Secretariat

(L-59)

the *192*

To

The Revd Comr, Bangalore city,

thro' the President, City Rule

Bangalore

Date of issue 31/8/26

Signed by hn TKS.

Sir,

With reference to your letter No 176 of the 21st/22nd May 1926 regarding the draft agreement proposed to be executed by the Bangalore Woollen Cotton and Silk Mills Co. Ltd, for the use of the Hegracha tank water, I am directed to forward a copy of the opinion of the A Govt Advocate in Mysore on the changes proposed by the Mills authorities in the draft agreement referred.

List of enclosures

Copied by

Examined by

over

"B"

By Court to request you to be so
kind as to arrange with the Title
Authorities to have
issued an Agreement executed
in accordance with the above authority
and supported by the Court Advocate.

A copy of the Document required
when sent to this Office for record.

I have the

[illegible] Lt. Sg

[illegible]
[illegible]